FORFEITURE AND LOSS OF RIGHTS

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https://archive.org/details/rechtsverwerking-en-verval-van-recht

"Dutch Hypocrisy" The Netherlands likes to present itself internationally—for example, in Brussels or at the UN—as the moral authority and the "best student in the class" when it comes to human rights and the rule of law. However, the selective policy exposed by the foundation reveals the dark side of this presentation:

- The Diary as a PR tool: The State uses the case surrounding Anne Frank's diary as international proof of its moral purity and fight against injustice.
- Trade interests over Truth: As soon as a dossier like Hitler's *Inferno* threatens to complicate relations with a powerful neighbor like Germany (think of the national anthem or Kok's letters), the State opts for economic opportunism.
- Institutional Denial of Justice: To maintain this "best student" status externally , the foundation's claim must never reach a substantive court case. Blocking the assignment of legal counsel is the tool used to keep up appearances.

The foundation thus exposes how the Dutch state uses Holocaust remembrance to gain international prestige, but
ignores it when it affects its wallet or diplomacy. The foundation's book serves as
a counter-archive, demonstrating that the Dutch state, "best student," actually flouts the law whenever it suits it.

For centuries, leprosy patients have been ostracized by their neighbors. This also happened in the Netherlands. In the Middle Ages, leprosy patients were banished to leper houses outside the cities. On the few occasions when they appeared within the city walls, they had to announce their arrival by clapping a clapper—a small wooden instrument made of three planks tied together with rope. The sound of the clapper was a signal for city dwellers to maintain distance and avoid infection. For leprosy patients, it was an appeal to others to give alms to ensure their survival. Words like "klaploper," "verwijzer," and "klikspaan" (literal), recall the era of the clapper. In 1995, the municipality of The Hague referred a human rights foundation, or rather its chairman, to the Salvation Army and the Kessler Foundation for social assistance , and in 2001, the municipality of Mierlo referred it to the d'n Herd shelter in Helmond. Furthermore, the foundation can never summon the state, because a lawyer can never be appointed. The state thus maintains the status quo to keep criticism of policy at bay. It's a comparison of modern ostracism: abuse of power by the state. The IFUD of Human Rights draws a sharp and painful parallel between the historical exclusion of leprosy patients and the way certain citizens or organizations are excluded from the system today. The use of the word **ostracism** is apt here; it describes the systematic ignoring or exclusion of an individual by a group or society.

Three key points where the comparison between the medieval clapper and the modern system touches:

1. The "Modern Clapper" and Social Exclusion

Just as the "clapper" once served to create distance, formal referrals (such as those from the municipality to shelters instead of structural support) can serve as a signal to society that someone with critical views of the establishment falls outside the mainstream. Instead of obtaining justice, the focus is on **isolation** .

2. The Legal Barrier (The Invisible Wall)

The foundation has no access to justice because it cannot appoint a lawyer to the case – *although the foundation has this right – and is therefore excluded from justice (no subsidized legal aid). This creates a democratic deficit:

- **Access to justice:** If a party does not have access to legal representation, the option to go to court is effectively closed.
- **Balance of power:** The state has virtually unlimited resources, while a foundation without "addition" is powerless. This reinforces the feeling of being outlawed, comparable to the status of a leper outside the city walls.

3. The Etymology of Exclusion

This linguistic history reveals how deeply the stigma of the "clapper" is entrenched in our culture. It suggests that as a society, we still have mechanisms for negatively labeling people who criticize policy.

Note: The situation in The Hague (1995) and Mierlo (2001) and the impossibility of suing the state affect the very foundations of the rule of law. When the government itself hinders critics' access to justice, we often speak of an **institutional barrier** .

It is a serious observation that while the methods of exclusion may have become less visible (no more wooden planks), the effects — poverty, isolation and lack of rights — can still be very real.

The use of state power to disregard the law for political and commercial interests, subordinating human rights, is a form of abuse of power that undermines the rule of law and democratic principles. These situations often arise when governments or officials use their positions for personal or political gain, leading to intimidation, manipulation, and infringements on fundamental freedoms.

Features and Impact:

- **Circumventing the law:** Governments place themselves above the law, leading to impunity for violations.
- **Prioritization of interests:** Political and economic goals (such as trade agreements, resource extraction, or economic growth) are prioritized over the well-being of citizens.
- **Human rights violations:** This can lead to the suppression of freedom of expression, unfair trials, and the failure to protect vulnerable groups.
- **Corruption and " Abuse of State Resources":** Public resources are misused to strengthen one's own power position, often at the expense of vital services.
- **Intimidation:** Governments can abuse legal systems to silence journalists and NGOs.

While international frameworks such as the EU Charter of Fundamental Rights are binding on Member States to prevent such abuse, enforcement in practice remains a challenge.

Concept	Legal source
Principle of the rule of law	Article 2 Treaty on European Union (TEU)
Abuse of power	Article 18 ECHR (Prohibition of restrictions on rights for purposes other than those prescribed)
Human rights	Charter of Fundamental Rights of the European Union
Judicial independence	Article 19 TEU

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the protection of the Union's budget in case of generalized deficiencies as regards the rule of law in the Member States. European Commission 2018/0136 (COD). Effective respect for the rule of law is a fundamental condition for confidence that EU expenditure in the Member States is sufficiently protected. As the Commission explained in its 2014 Communication entitled "A new EU Framework to strengthen the Rule of Law"[2], the rule of law is the backbone of every modern constitutional democracy. It is one of the fundamental principles stemming from the constitutional traditions common to all Member States of the European Union and, as such, one of the core values on which the Union is founded. This is recalled by Article 2 of the Treaty on European Union, as well as by the preambles to the Treaty and the Charter of Fundamental Rights of the European

Union. The rule of law ensures that state actions take place within an effective and reliable legal framework, that these actions can be monitored and, if necessary, challenged, and that effective redress mechanisms are available.

* In its judgment of 22 December 2010 (case C-279/09 , DEB Deutsche Energie- Agentur GmbH) ECLI:EU:C:2010:811 , the Court of Justice of the European Union ruled that the right to legal aid may also apply to legal persons **.**

Professional literature:

Legal development by the administrative judge VAR Association for Administrative Law

Preliminary advice: Prof.dr. EMH Hirsch Ballin, mr. dr. R. Ortlep and mr.dr . A. Publican.

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-279/09 , DEB Deutsche Energie-Agentur GmbH) ECLI:EU:C:2010:811